

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

RPM LEASING CORPORATION,)
)
Plaintiff,)
)
vs.)
)
COLEMAN POWERMATE, INC.,)
)
Defendant.)

Case No. 06-0055-CV-W-ODS

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On October 18, 2007, the Court entered an Order granting Plaintiff summary judgment with respect to its claims, Defendant's defenses, and most of Defendant's counterclaims. The Court declined to enter summary judgment on Defendant's counterclaim arising from the alleged loss of trailers, and a bench trial was held on November 20, 2007, to adjudicate that counterclaim.

Defendant leased trailers from third-parties, then arranged for Plaintiff to transport the trailers once they had been loaded at Defendant's facility. Defendant alleges that, during the course of the parties' relationship, Plaintiff lost two of the trailers. The Court cannot find, by the greater weight of the evidence, that Plaintiff last had custody of the trailers in question. Defendant bears the burden of proof on its counterclaim, and the Court finds Defendant has failed to carry its burden.

The only other issue to be resolved is the amount of prejudgment interest to which Plaintiff is entitled. The parties agreed on the mathematical computation that should be applied. Therefore, in addition to the amount awarded in the Court's October 18 Order (\$362,104.97), the Court awards Plaintiff prejudgment interest in the amount of \$69,253.14, for a total judgment in favor of Plaintiff in the amount of \$431,358.11. IT IS SO ORDERED.

DATE: November 26, 2007

/s/ Ortrie D. Smith

ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT